

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

GEORGE . FUL . NINYING

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

FIRE DEPARTMENT

CITY OF NEW YORK.

(In the space above enter the full name(s) of the defendant(s).  
If you cannot fit the names of all of the defendants in the space  
provided, please write "see attached" in the space above and  
attach an additional sheet of paper with the full list of names.  
Typically, the company or organization named in your charge  
to the Equal Employment Opportunity Commission should be  
named as a defendant. Addresses should not be included here.)

RECEIVED  
SDNY PRO SE OFFICE

2017 JAN 30 PM 4:25

17CV710

COMPLAINT  
FOR EMPLOYMENT  
DISCRIMINATION

Jury Trial: ☐ Yes ☒ No  
(check one)

This action is brought for discrimination in employment pursuant to: (check only those that apply)

\_\_\_\_\_ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.*

☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

*NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.*

\_\_\_\_\_ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

*NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.*

\_\_\_\_\_ New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

☒ New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

**I. Parties in this complaint:**

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name GEORGE FUL NINYING  
 Street Address P.O. Box 818  
 County, City New York, NY 10038  
 State & Zip Code NY; 10038  
 Telephone Number 917-689-2047

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name Fire Department, City of New York  
 Street Address 9 Metrotech Center  
 County, City Brooklyn  
 State & Zip Code NY, 11201  
 Telephone Number 718-999-2164

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer FDNY  
 Street Address 9 Metrotech Center  
 County, City Brooklyn  
 State & Zip Code New York, 11201  
 Telephone Number 718-999-2164

**II. Statement of Claim:**

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: (check only those that apply)

☐ Failure to hire me.  
☐ Termination of my employment.  
☒ Failure to promote me.  
☐ Failure to accommodate my disability.  
☒ Unequal terms and conditions of my employment.

✓

Retaliation.

Other acts (specify): \_\_\_\_\_

**Note:** Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: YEAR 2005 to 2015  
Date(s)

C. I believe that defendant(s) (check one):

✓

is still committing these acts against me.

\_\_\_\_\_ is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☐ race \_\_\_\_\_

☒ color \_\_\_\_\_

☒ gender/sex \_\_\_\_\_

☐ religion \_\_\_\_\_

☒ national origin \_\_\_\_\_

☐ age. My date of birth is 01-18-1957 (Give your date of birth only if you are asserting a claim of age discrimination.)

☐ disability or perceived disability, \_\_\_\_\_ (specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

Attached: EEOC Charge No. 520-2016-02841

**Note:** As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

### III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: EEOC charge No. 520-2016-02841 (Date).

**B. The Equal Employment Opportunity Commission (check one):**

  ✓   has not issued a Notice of Right to Sue letter.  
       issued a Notice of Right to Sue letter, which I received on 11/10/2016 (Date).

*Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.*

**C. Only litigants alleging age discrimination must answer this Question.**

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

  ✓   60 days or more have elapsed.  
       less than 60 days have elapsed.

**IV. Relief:**

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: Lost Salary, Attorney fees, promotion classification back pay, Reclassification compensation

*(Describe relief sought, including amount of damages, if any, and the basis for such relief.)*

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed this 30<sup>th</sup> day of January, 2017.

Signature of Plaintiff

Address

George F. Mingie.  
1164 Croes Ave Apt. 1.  
Bronx, NY 10472

Telephone Number

Fax Number (if you have one)

917-689-2047





**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**New York District Office**

Kevin J. Berry  
District Director

33 Whitehall Street, 5<sup>th</sup> Floor  
New York, NY 10004-2112  
For General Information: (800) 669-4000  
TTY: (800)-669-6820  
District Office: (212) 336-3620  
General FAX: (212) 336-3625

Via U.S. Mail

George Ful Ninying  
1947 Powell Avenue  
Bronx, NY 10472

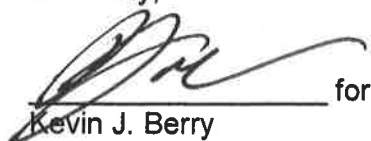
Re: **George Ful Ninying v. Fire Department City of New York**  
**EEOC Charge No. : 520-2016-02841**

The U.S. Equal Employment Opportunity Commission ("EEOC" or "Commission") enforces discrimination laws under Title VII of the Civil Rights Act of 1964 ("Title VII"), which prohibits employment discrimination based on race, color, sex, religion or national origin; the Equal Pay Act of 1963 ("EPA"), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination; the Age Discrimination in Employment Act of 1967 ("ADEA"), which protects individuals who are 40 years of age or older; The Americans with Disabilities Act Amendments Act ("ADAAA"), which prohibits discrimination against qualified individuals with disabilities, and the Genetic Information Nondiscrimination Act of 2008 ("GINA").

The EEOC has Charge of Discrimination ("Charge") prioritization procedures and these procedures call for the Commission to focus its limited resources on those cases that are most likely to result in findings of violations of the laws that we enforce. In accordance with these procedures the Commission has evaluated your Charge and based upon the evidence that you have submitted, the EEOC has decided not to further pursue its investigation of this Charge. This Determination is final.

Enclosed is your **Notice of Right to Sue ("NRTS")**. If you wish to pursue this matter, you must file a lawsuit against FDNY in Federal District Court within **90 days** of receipt of your NRTS; otherwise your right to sue will be lost. If you have any questions regarding your NRTS after reviewing the enclosed NRTS information sheet, please contact Federal Investigator Patrick Sanford at (212) 336-3677.

Sincerely,

  
\_\_\_\_\_  
Kevin J. Berry  
District Director

OCT 31 2016  
Date

EEOC Form 161 (11/09)

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ("EEOC")****DISMISSAL AND NOTICE OF RIGHTS**

To: **George Ful Ninying**  
**1947 Powell Avenue**  
**Bronx, NY 10472**

From: **New York District Office**  
**33 Whitehall Street – 5<sup>th</sup> Floor**  
**New York, NY 10004**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**520-2016-02841****Patrick Sanford, Federal Investigator****(212) 336-3677****THE EEOC IS CLOSING ITS INVESTIGATION OF THIS CHARGE OF DISCRIMINATION ("CHARGE") FOR THE FOLLOWING REASON:**

The facts alleged in the Charge fail to state a claim under any of the statutes enforced by the EEOC.



The allegations in the Charge did not involve a disability as defined by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your Charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your Charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the Respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this Charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this Charge.



Other (briefly state)

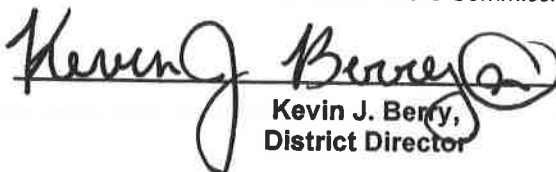
**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

  
**Kevin J. Berry,**  
**District Director**

**OCT 31 2016**

(Date Mailed)

Enclosures(s)

cc:

**Respondent:**

**New York City Fire Department**  
**Attn: Legal Department – Room 4W-11**  
**9 Metrotech Center**  
**Brooklyn, NY 11201**

**FACTS ABOUT FILING**  
**AN EMPLOYMENT DISCRIMINATION SUIT**  
**IN FEDERAL COURT IN NEW YORK STATE**

You have received a document which is the final determination or other final action of the Commission. This ends our handling of your charge. The Commission's action is effective upon receipt. Now, you must decide whether you want to file a private lawsuit in court. This fact sheet answers several commonly asked questions about filing a private lawsuit.

**WHERE SHOULD I FILE MY LAWSUIT?**

Federal District Courts have strict rules concerning where you may file a suit. You may file a lawsuit against the respondent (employer, union, or employment agency) named in your charge. The appropriate court is the district court which covers either the county where the respondent is located or the county where the alleged act of discrimination occurred. However, you should contact the court directly if you have questions where to file your lawsuit. New York State has four federal districts:

- **The United States District Court for the Southern District of New York** is located at 500 Pearl Street in Manhattan. It covers the counties of Bronx, Dutchess, New York (Manhattan), Orange, Putnam, Rockland, Sullivan, and Westchester. (212) 805-0136 <http://www.nysd.uscourts.gov>
- **The United States District Court for the Eastern District of New York** is located at 225 Cadman Plaza in Brooklyn and covers the counties of Kings (Brooklyn), Nassau, Queens, Richmond (Staten Island), and Suffolk. (718) 613-2600 <http://www.nyed.uscourts.gov>
- **The United States District Court for the Western District of New York** is located at 68 Court Street in Buffalo. It covers the counties of Allegheny, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates. (716) 551-4211 <http://www.nywd.uscourts.gov>
- **The United States District Court for the Northern District of New York** is located at 100 South Clinton Street in Syracuse and covers the counties of Albany, Broome, Cayuga, Chanango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onandaga, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, and Washington. This District Court's pro Se Attorney has offices at 10 Broad Street in Utica New York. (315) 234-8500 <http://www.nynd.uscourts.gov>

**WHEN MUST I FILE MY LAWSUIT?**

Your private lawsuit must be filed in U.S. District Court **within 90 days** of the date you receive the enclosed EEOC Notice of Right to Sue. Otherwise, you will have lost your right to sue.



### **DO I NEED A LAWYER?**

No, you do not need a lawyer to file a private suit. You may file a complaint in federal court without a lawyer which is called a pro se complaint. Every district court has either a clerk or staff attorney who can assist you in filing pro se. To find out how to file a pro se complaint, contact the clerk of the court having jurisdiction over your case who can advise you of the appropriate person to assist you and of the procedures to follow, which may vary from district to district.

You may, however, wish to retain a lawyer if you choose. Whether you retain a private attorney, or file pro se, you must file your suit in the appropriate court within 90 days of receiving this mailing.

### **WHAT IF I WANT A LAWYER BUT I CAN'T AFFORD ONE?**

If you can't afford a lawyer, the U.S. District Court which has jurisdiction may assist you in obtaining a lawyer. You must file papers with the court requesting the appointment of counsel. You should consult with the office of the district court that assists pro se complainants for specific instructions on how to seek counsel. The appointment of counsel in any pro se complaint is always at the discretion of the court.

Generally, the U.S. District Court charges a **\$350.00 filing fee** to commence a lawsuit. However, the court may waive the filing fee if you cannot afford to pay it. You should ask the office of the District Court that assists pro se complainants for information concerning the necessary procedure to request that the filing fee be waived.

### **HOW CAN I FIND A LAWYER?**

These are several attorney referral services operated by bar or other attorney organizations which may assist you in finding a lawyer and ascertaining and asserting your legal rights:

**American Bar Association**  
(800) 285-2221 [www.abanet.org](http://www.abanet.org)

**New York State Bar Association**  
(800) 342-3661 [www.nysba.org](http://www.nysba.org)

**New York City Bar Association**  
**Association**  
**Legal Referral Service**  
(212) 626-7373

**National Employment Lawyers**  
**Referral Service** (212) 819-9450  
<http://www.nelany.com/EN>

Other local Bar Associations in your area may also be of assistance.

### **HOW LONG WILL THE EEOC RETAIN MY CASE FILE?**

Generally, the Commission's rules call for your charge file to be destroyed two (2) years from the date of a determination, but time frames may vary. If you file suit and wish to request a copy of your investigative file, you or your attorney should make the request in writing as soon as possible. If you file suit, you or your attorney should also notify this office when the lawsuit is resolved.



**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

***IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.***